

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/06/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

Tr.C.M.P.No.2800 of 2004

and

Tr.C.M.P.No.2801 of 2004

and

C.M.P.NO.2802 of 2004

and

C.M.P.No.2803 of 2004

S.Shanmuga Priya .. Petitioner in
both petitions

-vs-

K.Santhosh .. Respondent in
Tr.C.M.P.No.2800/2004

Senthil Kumar .. Respondent in
Tr.C.M.P.No.2801/2004

These petitions are filed under Section 24 CPC praying for the
reliefs as stated therein.

For petitioner: : Mr.Somayaji,
Senior Counsel
for Mr.C.A.Theagarajan

For respondents: : Mr.Elambarithi.

:ORDER

These Transfer Civil Miscellaneous Petitions have been filed
by the petitioner-wife praying to withdraw O.P.Nos.9 of 2002 and 115 of 2003
respectively on the file of the Family Court, Coimbatore and to transfer the
same to any other Family Court in the State of Tamil Nadu.

2. Today, when the above matters are taken up for
consideration, it comes to be known that the petitioner herein has filed
H.M.O.P.No.9 of 2002 on the file of the Family Court, Coimbatore as against
the respondent in Tr.C.M.P.No.2800 of 2004 by name K.Santhosh for restitution

of conjugal rights stating that they both got married on 30.4.20 01 in the Vinayakar Temple, Collector's Office Compound, Coimbatore as per Hindu rites and customs and when the said proceedings are pending, the respondent in Tr.C.M.P.No.2801 of 2004 by name Senthil Kumar has filed H.M.O.P.No.115 of 2003 before the same Family Court, Coimbatore as against the petitioner herein for restitution of conjugal rights on ground that he married the petitioner on 19.7.2002 at Kodaikanal.

3.It further comes to be known that since on 18.8.2003, the petitioner herein did not appear before the Court, the Court below while dismissing her petition in HMOP.No.9 of 2002 has allowed the other HMOP No.115 of 2003 and thereupon at the instance of the petitioner, both the petitions were again restored to file. In this backdrop, the petitioner has come forward to file both the above petitions on ground that the Family Court, Coimbatore is biased against her and is always commenting against her in the open Court. The petitioner would further submit that on 28.11.2003, when the matter came up for hearing, the Family Court, Coimbatore informed the counsel that there was an order to conduct a joint trial in O.P.Nos.9 of 2002 and 115 of 2003 and in spite of repeated requests made on her part to peruse the said order, the Court did not permit her on ground that it is only a single line order and nothing is there to peruse; that in spite of a representation that joint trial in these cases could not be held since the parties are different and the causes of action are also different and in spite of a memo. filed to that effect, the Family Court, Coimbatore was insisting to conduct joint trial of both the matters and passed an order to that effect; that the Family Court, Coimbatore has not shown any eagerness or anxiety to get on with the matter for the last three years and she lost confidence in the Family Court, Coimbatore and apprehends that she would not get justice before the said Court.

V.KANAGARAJ,J.

4. Considering all the facts and circumstances of the case, and taking into consideration of the fact that joint trial could not be taken in both O.P.s since, the parties are different in each O.P. and the cause of action is also different between two O.Ps, this Court is of the view that both the above matters could be transferred to the Court of Principal District Judge, Coimbatore, to avoid any unpleasantness in the matters. In result,

i) the above Tr.C.M.P.Nos.2800 and 2801 of 2004 are

ordered accordingly;

ii) the cases are transferred to the Court of Principal District Judge, Coimbatore , who is directed to dispose of both the matters in the manner required under law.

iii) Consequently, connected C.M.P.Nos.2802 and 2803 of 2004 are closed;

vi) there shall be no order as to costs.

sg

The Family Court,Coimbatore.

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